

Rules Amending Title 11
Hawaii Administrative Rules

May 31, 2000

1. Chapter 57 of Title 11, Hawaii Administrative Rules, entitled "Immunization and Examination" is amended and compiled to read as follows:

HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 157

EXAMINATION AND IMMUNIZATION

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§11-157-1 Purpose. The purpose of this chapter is to establish immunization requirements and immunization and examination requirements for school attendance in the State of Hawaii and to provide for the immunization of indigents and other high risk individuals. [Eff 11/5/81; am and comp 6/17/93; am and comp Oct. 23, 1997] (Auth: HRS §§302A-1162, 321-9, 321-11, 325-13, 325-32)(Imp: HRS §§302A-901, 302A-1154 through 302A-1163, 321-1, 321-9, 321-11, 325-13, 325-32)

through 325-38)

§11-157-2 Definitions. As used in this chapter:

~~["Advanced practice registered nurse" means a nurse who has been granted recognition as an advanced practice registered nurse by the State board of nursing under the provisions of chapter 457, HRS."]~~

"Certificate of TB examination" means a dated report of a tuberculosis examination including the information specified in subsections 3.2(c)-(e), on the stationery of a practitioner or the form of a health department or school system, with the signature of a practitioner or a unique stamp of the practitioner, the licensed facility at which the practitioner practices, or the department.

"Communicable tuberculosis" means tuberculosis in any form considered by the department to represent a risk of being transmitted to other individuals.

"Department" means the department of health of the State of Hawaii, or any authorized officer or agent of the department.

"Director" means the director of health of the State of Hawaii or a duly authorized agent.

"Epidemic" means the occurrence in a community or region of an illness clearly in excess of normal expectancy, as determined by the department.

"Immunization" means the process of administering a specific substance to promote an immune response, including antibody production.

"Immunizing agent" means a vaccine, toxoid, or other substance used to increase an individual's immunity to a disease.

~~["K-12 school" means a kindergarten, or elementary or secondary school at which attendance meets the requirements for compulsory school attendance.]~~

"Mantoux tuberculin test" means an intradermal injection of 5 tuberculin units of Purified Protein Derivative in 0.1 cc of sterile diluent, followed within 48-72 hours by recording of the palpable induration, with a positive reaction being 10 mm or greater in its transverse diameter.

"Outbreak" means the occurrence in a community or region of an illness clearly in excess of normal expectancy, as determined by the department.

~~"Physician" means a [practitioner of medicine who is licensed under the provisions of chapter 453 or 460, HRS, or a person authorized to practice medicine in federal facilities located in the State]~~ a person licenced to practice medicine or osteopathy in any of the states or territories of the United States.

Licensure or accreditation in chiropractic, homeopathy, acupuncture, or herbal healing do not qualify a person as a physician in this chapter.

"Post-secondary school" means any adult education school, business school, trade school, community college, college or university enrolling or registering students above the age of compulsory school attendance.

"Practitioner" means a physician or Advanced Practice Registered Nurse licensed to practice in any of the states or territories of the United States."

~~["Preschool" means any child care center, preschool, day care center, day nursery, Head Start program, or group child care home, but "preschool" excludes after-school programs, family child care, parent cooperatives, play groups, respite programs, and drop-in child care centers.]~~

"School" means any [preschool, K-12 school, or post-secondary school.] child care center, preschool, day care center, day nursery, Head Start program, group child care home, kindergarten, elementary, intermediate, middle or secondary school, but excludes after-school programs, family child care, parent cooperatives, play groups, respite programs, and drop-in child care centers.

"Student" means any child or adult enrolled in any school or post-secondary school in the State.

~~["Tuberculin test" means an intradermal injection of 0.0001 mg (5 tuberculin units) of Purified Protein Derivative in 0.1 cc of sterile diluent, followed within 48-72 hours by recording of the palpable induration, with a negative reaction being less than 10 mm in its transverse diameter.]~~

~~["Valid TB certificate" means a certificate:(1) issued by the department stating that the holder is free of communicable tuberculosis; or (2) a signed statement by a physician or advanced practice registered nurse on a form approved by the department indicating (i) the dates and times of administration and reading of the tuberculin test and the diameter of induration, or (ii) the date and location the chest x-ray was obtained, and name of reader of the chest x-ray; and stating that the physician or advanced practice registered nurse has examined an individual on a particular date and found the person to be free of communicable tuberculosis.] [Eff 11/5/81; am and comp 6/17/93; am and comp Oct. 23, 1997; am and comp~~

~~]~~ (Auth: HRS §§302A-1162, 321-9, 321-11, 325-13, 325-32)(Imp: HRS §§302A-901, 302A-1154 through 302A-1163, 321-1, 321-9, 321-11, 325-13, 325-32 through 325-38)

§11-157-3 Immunization. (a) Immunizations against certain specified diseases, including minimum spacing between doses, and other conditions governing acceptability of immunizations, are required as set forth in the following exhibits:

~~[Exhibit A, "Guide to Hawaii Pediatric Immunization Requirements (January 1, 1998),"~~
~~Exhibit B, "Guide to Hawaii Immunization and Examination Requirements for Preschool Entry (January 1, 1998),"~~
~~Exhibit C, "Guide to Hawaii Immunization and Examination Requirements for Schools Kindergarten-Grade 12 (January 1, 1998)," and~~
~~Exhibit D, "Guide to Hawaii Immunization and Examination Requirements for Post-Secondary Schools (January 1, 1998)."]~~

Exhibit A, "Guide to Hawaii Pediatric Immunization Requirements (January 1, 2001)"
Exhibit B, "Guide to Hawaii Immunization and Examination Requirements for School Attendance (January 1, 2002)."
Exhibit C, "Guide to Hawaii Post-secondary School Immunization Requirements."

(b) The Exhibits are located at the end of and are made a part of this chapter. If an exhibit conflicts with this chapter, this chapter shall prevail.

(c) Documentation of immunizations shall indicate the name of the practitioner responsible for administering or reviewing each immunization and bear the signature of a practitioner or a unique stamp of the practitioner or licensed facility at which the practitioner practices.

(d) Documentation of immunizations shall include the complete date the vaccine was administered. A record with only the month and year of immunization may be accepted for school attendance if it can be determined that each vaccination complied with the minimum interval and age requirements.

(e) Documentation of serologic evidence of immunity may be substituted for a record of immunizations for certain diseases as specified in Exhibit B and Exhibit C. The documentation shall include a laboratory report and certification by a practitioner that the report provides evidence of immunity to the named disease.

(f) Documentation signed by a practitioner of a history of varicella (chicken pox) as specified in Exhibit B may be substituted for a record of

immunization with varicella vaccine.

(q) Documentation of immunizations and evidence of immunity shall be kept with the student's health record. [Eff 11/5/81; am and comp 6/17/93; am and comp Oct. 23, 1997; am and comp] (Auth: HRS §§302A-1162, 321-9, 321-11, 325-13, 325-32) (Imp: HRS §§302A-901, 302A-1154 through 302A-1163, 321-1, 321-9, 321-11, 325-13, 325-32 through 325-38)

§11-157-3.1 Responsibility. (a) Each person is responsible for his or her own immunizations, except that each parent, guardian, or other person who has care, custody, or control of a minor, protected person, or dependent is responsible for the immunization and examination of his or her minor, protected person, or dependent.

(b) Each school and post-secondary school principal or administrator shall ensure that his or her school only admits students who comply with this chapter. [Eff and comp Oct. 23, 1997; am and comp] (Auth: HRS §§302A-1162, 321-9, 321-11, 325-13, 325-32) (Imp: HRS §§302A-901, 302A-1154 through 302A-1163, 321-1, 321-9, 321-11, 325-13, 325-32 through 325-38, 325-71 through 325-84)

§11-157-3.2 Tuberculosis examination requirements. (a) Each student shall be examined for infection with tuberculosis by a ~~[physician, advanced practice registered nurse,]~~ practitioner or the department ~~[before first entering preschool and before first entering K-12]~~ within 12 months prior to first attending school in Hawaii [for infection with tuberculosis], except as noted in subsection (b). The tuberculosis examination requirements for attendance at post-secondary school are as provided in chapter 11-164.

~~[(b) No person shall allow a student to enter any preschool or K-12 school in Hawaii without a valid TB certificate.~~

~~— (c) A negative tuberculin test or negative chest x-ray will be accepted as evidence of freedom from communicable tuberculosis.]~~

(b) A tuberculin test administered prior to age 12 months shall not be considered valid for purposes of school attendance. A student first attending school before 13 months of age shall obtain and present a certificate of TB examination prior to age 14 months or be excluded from school until a certificate of TB examination is obtained and presented.

(c) A certificate of TB examination shall report the results of a Mantoux tuberculin test, including the dates of administration and reading and the transverse diameter of induration in millimeters, and shall bear the signature or unique stamp of the practitioner, the licensed facility at which the practitioner practices, or the department. If the transverse diameter is equal to or greater than 10 mm., the certificate shall also report the result of a chest x-ray, including the date and location the x-ray was obtained. If the reader of the x-ray or practitioner cannot determine that the student is free from communicable TB, then no certificate shall be issued and the case shall be immediately referred to the department of health.

(d) A person providing written documentation of a prior positive Mantoux tuberculin test result [signed by a physician or advanced practice registered nurse that includes the date of administration and] which includes the name of the practitioner or clinic administering the test, the dates of administration and reading and the diameter of induration in millimeters may have a certificate issued based on a chest x-ray [in lieu of] without a repeat tuberculin test, provided that the certificate shall contain the required information about the positive Mantoux tuberculin test.

(e) A person with a chest x-ray consistent with tuberculosis shall submit to further examination or treatment as deemed necessary by the department to exclude or treat a diagnosis of communicable tuberculosis before issuance of a valid TB certificate.

(f) A [valid TB] certificate of TB examination issued within 12 months before first [entry into a preschool] attendance at school in Hawaii shall not expire for purposes of [preschool] school attendance [entry] and may be used for transfer or [entry] attendance at [into] all [preschools] schools in Hawaii. [A valid TB certificate issued within 12 months before first entry into a K-12 school in Hawaii shall not expire for purposes of K-12 school attendance and may be used for entry or transfer into all K-12 schools in Hawaii.]

(g) [A copy of the valid TB certificate shall be kept in the student's health record at the school attended.] A certificate of TB examination is required for school attendance. Every school shall maintain a copy of each student's certificate of TB examination while the student is enrolled, shall make that copy available for inspection by the department, and shall transmit a copy of the certificate together with the student's health record to the school to which a student transfers. [Eff and comp Oct. 23, 1997; am and

comp] (Auth: HRS §§302A-1162, 321-9, 321-11, 325-13) (Imp: HRS §§302A-901, 302A-1154 through 302A-1163, 321-1, 321-11, 325-71 through 325-84)

§11-157-4 Performance of immunization, [physician] and records[, and certifications]. (a) Any immunization required by these rules shall be performed by a [physician] practitioner or other medical personnel under the direction of a [physician] practitioner, or by the department.

(b) Records of any examination or immunization required by these rules shall be maintained by the [physician] practitioner or the department and shall be available for inspection and copying by the department.

~~[(c) Physicians or licensed medical personnel under the direction of a physician, or the department, shall certify immunizations and examinations they perform which are required by these rules.]~~ [Eff 11/5/81; am and comp 6/17/93; am and comp Oct. 23, 1997; am and comp] (Auth: HRS §§302A-1162, 321-9, 321-11(22), 325-13, 325-32) (Imp: HRS §§302A-1154, 302A-1160, 302A-1159, 302A-1162, 302A-1163, 321-9, 321-11, 325-13, 325-32, 325-33, 325-35)

§11-157-4.1 Immunization of indigents and other persons. (a) The department shall provide for free immunization for the indigent and medically indigent for their protection against the diseases required by these rules. In this section, "indigent" and "medically indigent" have the meanings defined in HRS section 325-38.

(b) The department may provide for free immunization of high risk individuals to interrupt transmission or limit morbidity from communicable diseases, or to protect employees of the department from communicable diseases which they may encounter in the performance of their duties. [Eff and comp Oct. 23, 1997; comp] (Auth: HRS §§302A-1162, 321-9, 321-11(22), 325-13, 325-32, 325-38) (Imp: HRS §§302A-1158, 325-38)

§11-157-5 Exemptions. (a) ~~[Exemptions from immunizations required under this chapter are as provided in sections 302A-1156, 302A-1157 and 325-34, HRS, and implemented in this section. Immunizations for school attendance may be deferred as specified in a physician's certificate of medical exemption, or a~~

~~request for religious exemption on a form approved by the department. Students of post-secondary schools may apply for religious exemption on their own behalf.]~~

(a) Medical exemptions from the requirements for specific immunizing agents shall be granted upon certification by a physician on the physician's professional stationery that an immunization is medically contraindicated for a specific period of time. The original certificate shall be provided to the exempt person or parent or guardian. A copy of the certificate shall be maintained in the student's school health record. Reports of such certificates shall be submitted to the department by each school.

(b) A religious exemption shall be granted to a student whose parent, custodian, guardian, or other person in loco parentis certifies that the person's religious beliefs prohibit the practice of immunization. Requests for exemptions based on objections to specific immunizing agents will not be granted. Students who have reached the age of majority shall apply on their own behalf. The certification shall be retained in the student's health record. Reports of such exemptions shall be submitted to the department by each school.

~~[(b)]~~ (c) If at any time, the director determines that there is the danger or presence of an outbreak or epidemic from any of the communicable diseases for which immunization is required under this chapter, the exemption from immunization against such disease shall not be recognized and inadequately immunized students shall be excluded from school until the director has determined that the presence or danger of the outbreak or epidemic no longer exists.

~~[(c) Certificates of medical exemptions shall be made on the stationery or printed forms of the physician or the department. The original copy of such certificate shall be provided to the exempt person or his or her parent or guardian. Copies of such certificates shall be kept in the office of the department and in the student's health record at school.]~~

~~(d) Certificates of religious exemption shall be made on forms approved by the department. Such certificates shall be kept in the office of the department. A copy of the certificate shall be included in the student's health record at school.]~~

[Eff 11/5/81; am and comp 6/17/93; am and comp Oct. 23, 1997; am and comp] (Auth: HRS §§302A-1162, 321-9, 321-11(22), 325-13, 325-32) (Imp: HRS §§302A-1156, 302A-1157, 321-1, 321-9, 321-11, 325-13, 325-32, 325-34, 325-35)

§11-157-6.1 Health examination requirements. (a)

Each student shall ~~[be physically examined by a physician before the student enters a preschool and before the student enters a K-12 school.]~~ present a record of his or her physical examination by a practitioner before the student first attends school. The examination shall occur within 12 months before the ~~[first] date of [entry into]~~ first attendance. ~~[a preschool or 12 months before the first date of entry into a K-12 school in the State of Hawaii].~~ The record shall be transferred to subsequent schools attended by the student, and re-examination is not required.

(b) Results of the examination shall be reported to the school on ~~[the "Pupil's Health Record," (Form 14) supplied by the Department of Education.]~~ a form approved by the department. ~~[Signing of this form by a physician constitutes a certification by that physician of the entries made by the physician or under his or her direction.]~~ The report of physical examination shall be signed by the practitioner performing the examination.

~~[(c) A valid Form 14 submitted on or before first entry into preschool may be used at that preschool or any other preschools. A valid Form 14 submitted on or before first entry into K-12 school may be used at that school or other K-12 schools as long as the student attends such schools.]~~

~~[(c) The report of physical examination shall be kept with the student's health record.]~~

~~[(d) A copy of the Form 14 shall be kept in the student's health record at the school which the student attends.]~~ [Eff and comp Oct. 23, 1997; am and comp
] (Auth: HRS §§302A-1162, 321-9, 321-11, 325-13, 325-32) (Imp: HRS §§302A-901, 302A-1154 through 302A-1163, 321-1, 321-9, 321-11, 325-13, 325-32 through 325-38)

§11-157-6.2 Provisional [entrance] attendance. (a) A student who does not have evidence of all of the required immunizations or a report of physical examination may ~~[enter]~~ attend school provisionally upon submitting written ~~[proof]~~ evidence from a ~~[physician]~~ practitioner or the department stating that the student is in the process of receiving required immunizations or physical examination. A physical examination is not required for post-secondary school attendance. An appointment notice from a ~~[physician's]~~ practitioner's office or the department shall be recognized as written ~~[proof]~~ evidence.

(b) If a preschool or K-12 student does not

complete the required immunizations or examination within three months of the date of provisional entry, the school shall notify the parent by dated, written notice of exclusion that the student will be excluded from the school beginning 30 calendar days after the date of the notice.

~~[(c) If a post-secondary school student does not complete the required immunizations within three months of the date of provisional entry, the school shall notify the student by dated, written notice of exclusion that the student will be excluded from the school beginning 30 calendar days after the date of the notice.]~~

~~[(d)]~~ (c) Beginning on the school day 30 calendar days after the date of notice of exclusion, the student shall be prohibited from attending school unless and until complete documentation covering the required immunizations and physical examination is provided to the school.

(d) If all of the required immunizations cannot be completed within three months due to the required minimum intervals between doses or other medical necessity, provisional attendance may be extended as long as evidence is provided that appointments have been made to complete the required immunizations. If a student whose provisional attendance period has been extended fails to keep a scheduled appointment, he or she shall be excluded from school until evidence that the required immunizations have been obtained is presented to the school.

(e) If a post-secondary school student does not complete the required immunizations within 45 days of the date of provisional entry, the school shall exclude the student from all school activities until documentation that the required immunizations have been obtained is provided to the school. [Eff and comp Oct. 23, 1997; am and comp] (Auth: HRS §§302A-1162, 321-9, 321-11, 325-13, 325-32) (Imp: HRS §§302A-1155 through 302A-1157, 302A-1159, 302A-1160, 302A-1162, 321-1, 321-9, 321-11, 325-13, 325-32, 325-35, 325-36)

§11-157-6.3 School reporting and records. (a)

Each ~~[preschool]~~ school shall report to the department by October 10 and January 10 of each year the names of all students who have been provisionally admitted, have been excluded for failure to comply fully with the immunization or examination requirements in this chapter, and who have medical or religious exemptions. This report shall include the types of immunizations

and dose numbers which are incomplete for each of these students and shall be in a format as specified by the department.

~~[(b) Every K-12 school shall report to the department by October 10 and January 10 of each year the names of all students who have been provisionally admitted, have been excluded for failure to comply fully with the immunization or examination requirements in this chapter, and who have medical or religious exemptions. This report shall include the types of immunizations and dose numbers which are incomplete for each of these students.~~

~~[(c) Schools shall use any forms specified by the department.]~~

~~[(d)]~~ (b) School and post-secondary school records documenting compliance with this chapter shall be made available for inspection and copying by the department upon request. [Eff and comp Oct. 23, 1997; am and comp] (Auth: HRS §§302A-1162, 321-9, 321-11, 325-13, 325-32) (Imp: HRS §§302A-901, 302A-1154 through 302A-1163, 321-1, 321-9, 321-11, 325-13, 325-32 through 325-38)

§11-157-7 Penalties and remedies. Penalties and remedies for failure to comply with these rules are provided in sections 321-18, 321-20, 325-14, and 325-37, HRS. [Eff 11/5/81; am and comp 6/17/93; comp Oct. 23, 1997; comp] (Auth: HRS §§302A-1162, 321-9, 321-11, 325-13, 325-32) (Imp: HRS §§302A-901, 302A-1154 through 302A-1163, 321-1, 321-9, 321-11, 321-18, 321-20, 325-13, 325-14, 325-32 through 325-38, 325-71 through 325-84)

§11-157-7.1 Suspension and revocation; exclusion.

(a) Valid TB certificates, immunization records, physical examination records, and certificates of medical or religious exemption (collectively "documents") may be suspended or revoked if a preponderance of the evidence shows that a document contains a material inaccuracy, misrepresentation, or is fraudulent.

(b) A child or student shall be excluded from school or post-secondary school if any document required by this chapter is suspended or revoked. [Eff and comp Oct. 23, 1997; am and comp] (Auth: HRS §§302A-1162, 321-9, 321-11, 325-13, 325-32) (Imp: HRS §§302A-901, 302A-1154 through 302A-1163, 321-1, 321-9, 321-11, 325-13, 325-32)

through 325-38)

§11-157-8 Severability. If any provision of this chapter, or its application to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby." [Eff 11/5/81; comp 6/17/93; comp Oct. 23, 1997; comp] (Auth: HRS §§302A-1162, 321-9, 321-11, 325-13, 325-32) (Imp: HRS §§302A-901, 302A-1154 through 302A-1163, 321-1, 321-9, 321-11, 325-13, 325-32 through 325-38, 325-71 through 325-84)

2. Material, except source notes, to be repealed, is bracketed. New material is underscored.

3. Additions to update source notes to reflect these amendments and compilation are not underscored.